

The Salisbury Planning Board held its regular meeting Tuesday, November 8, 2005, in the City Council Chamber of the Salisbury City Hall at 4 p.m. with the following being present and absent:

PRESENT: Dr. Mark Beymer, Bryan Duncan, Lou Manning, Sandy Reitz, Valarie Stewart, Albert Stout, Bryce Ulrich, Dr. Kelly Vance, Price Wagoner, Charlie Walters, and Diane Young

ABSENT: Brian Miller

STAFF: Janet Gapen, Dan Mikkelson, Preston Mitchell, Diana Moghrabi, Joe Morris, and David Phillips

Vice Chairman **Lou Manning** called the meeting to order and offered the invocation. The minutes of the October 25, 2005, meeting were approved as published.

ZONING MAP AMENDMENT

- A. Z-13S-05 Autumn Care Facilities, Ltd.
914 Newsome Road
057 063
4.82 Acres
From R-8 to B-1-S**

The property is located along the western right-of-way line of Newsome Road, approximately 660 feet south of Bringle Ferry Road.

Single-Family Residential District (R-8 district): The single-family-8 residential district is intended primarily for detached single-family dwellings and their customary accessory buildings or structures.

B-1-S District: Primarily service-type businesses that do not maintain stock of goods; however, the S-District is identical to the B-1, but the required Special Use Permit may limit one or more B-1 uses and City Council has authority to impose additional provisions or restrictions.

Special Use Permit District (S-District): This is a conditional zoning tool that must be voluntarily petitioned for by the property owner. It allows the petitioner to seek specific uses within the underlying base zoning district in situations where a general zoning district and its allowable uses might be too intensive. City Council has the authority to impose reasonable conditions on the property that would run with the land. Conditions and the associated permit can be amended or revoked by the Council at any time in the future.

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The petitioner originally requested a general B-1 district, which allows a variety of uses that staff believed were incompatible with area. Staff recommended denial due to the inconsistency with the Vision 2020 Comprehensive Plan. Surrounding neighbors generally supported expansion of the Autumn Care Facility. The Planning Board acted to send Z-13-05 to Committee.

No committee meeting was held because the petitioner voluntarily amended the application to limit uses. The law requires that the property owner sign the application for an “S” District rezoning – this was provided to staff.

New Petition Language: Continue to allow all current R-8 uses in addition to uses permitted under ‘Nursing Homes’ as stated in Salisbury’s Zoning Code and further clarified by a Letter of Clarification as provided by the Zoning Administrator, David Phillips, on October 27, 2005. Adult day care is added to the uses.

Staff Recommendation: Recommend that the Salisbury Planning Board vote to recommend approval of the S-District rezoning and the associated S-District Permit that would allow all current R-8 (SF residential) uses in addition to the use of “Nursing Homes” per the City’s Zoning Code and further clarified by a Letter of Clarification as provided by the Zoning Administrator, with the addition of adult day care use.

Some previous concerns will be handled during the group development process.

Those speaking in favor:

Mr. Glenn Ketner, 121 East Kerr Street, is an attorney speaking on behalf of Autumn Care, the owner of the property. He kept his comments brief. The new rezoning application eliminates about 18 B-1 uses; the purpose of the proposed zoning is to provide a continuum of care for an aging population.

Doug Sudreth, Vice President of Development for Autumn Corporation, 1414 Hwy 268, Lenoir, NC--At this point there is no funding for adult day care and they do not have any adult day care units. This could be a need they will address in the future.

Josephine Peeler, lives at 102 Fairfax Drive--hoped that the expansion will provide private and semi-private rooms only. She voiced concern for an increase of traffic on Newsome Road.

Those speaking in opposition: NONE

Board discussion and action: Albert Stout made a motion to recommend approval of Z-13S-05 as submitted today. Bryce Ulrich seconded the motion with all members voting AYE (11-0).

B. Z-14S-05 Power Curbers
727 Bendix Drive
070 095
20.96 acres
From M-1 to M-2-S

M-1 District: Wholesaling, light manufacturing and processing, assemblage, and distribution.

M-2-S District: All of the above uses plus general manufacturing and fabricating; however, the S-District is identical to the M-2, but the required Special Use District Permit may limit one or more M-2 uses and City Council has authority to impose additional provisions or restrictions.

The conditional zoning is a tool that must be voluntarily petitioned by the property owner. It allows a petitioner to seek specific uses within the underlying base zoning district in situations where general zoning district and its allowable uses might be too intensive. City Council has authority to impose reasonable conditions on the property that would run with the land: conditions and the associated permit can be amended or revoked by City Council at any time in the future.

Vision 2020 Comprehensive Plan, 'Newer Industrial Areas'

Primary concern is that of compatibility with nearby non-industrial lands. Planning Board and City Council must wrestle with issues of noxious impact on residential areas such as odors, smoke, noise, bright lights, and truck traffic.

Staff Recommendation

Staff recommends that the Planning Board vote to recommend approval of the S-District zoning and permit to allow all current M-1 uses in addition to the manufacturing of industrial and construction equipment with the following recommended condition(s): That the standard 8-foot street yard planting area be provided along the entire frontage of Bendix Drive.

Those speaking in favor

Linda Bailey, works at 402 Bringle Ferry Road and is employed by Power Curbers. She and Senior Planner Preston Mitchell contacted neighbors and scheduled a neighborhood meeting at Grace United Methodist Church, but no one attended. A letter and brochure were sent to the neighbors as an introduction of the company.

About six times a year machines are tested outside of the building. Some noise could result from this testing. There is interior noise from fabrication and no noticeable odor. Power Curbers is working with Bendix/Honeywell to clean up the site on Bendix Drive of any previous contamination.

Those speaking in opposition: None

Board discussion and decision

Mr. Manning commended the willingness of Power Curbers to schedule a meeting. The topography of the land puts the site out of the visual line of the neighbors.

Diane Young asked if there could be any restrictions on noxious impact. Staff did not know what quantitative measures could be used to do so. Mark Beymer stated that the “S” district protects the neighborhood against noxious impact should that become a public concern.

Mark Beymer asked if Tilley’s on Bendix Drive is putting in sidewalks; they are because it is new construction. Sandy Reitz added that she would like the installation of sidewalks on Bendix Drive to be included as a condition of the Planning Board’s recommendation to City Council. Bryce Ulrich agreed that there is justification for including sidewalks for pedestrians at this location.

Mrs. Reitz made a motion to recommend approval of Z-14S-05--including an 8-foot buffer as recommended by staff with the addition of a sidewalk on Bendix Drive. Mark Beymer seconded the motion with all members voting AYE. (11-0)

C. Z-15S-05 Kay Norman
316 Mooresville Road
014 197
.53 acres
From R-8 to R-6A-S

R-8 district: Detached Single-Family dwellings, accessory structures, limited public uses

R-6A-S district: Single-Family, duplex, multi-family and variety of community uses; however, the S-District is identical to the R-6A, but the required Special Use Permit may limit one or more R-6A uses and City Council has authority to impose additional provisions or restrictions.

Special Use Permit District (S-District) is a conditional zoning tool that must be voluntarily petitioned by the property owner. It allows the petitioner to seek specific uses within the underlying base zoning district in situations where a general zoning district and its allowable uses might be too intensive. The City Council has the authority to impose reasonable conditions on the property that would run with the land. Conditions and the associated permit can be amended or revoked by City Council at any time in the future.

Vision 2020 Comprehensive Plan ‘Older Neighborhoods’: Typically, these neighborhoods are laid out in more traditional grid pattern, are served by public transit facilities, are relatively higher densities, are convenient to neighborhood services, civic and cultural facilities, and downtown. These neighborhoods are typically pedestrian-oriented.

Policy N-7 “encourages appropriately located, pedestrian oriented, designed, and scaled stores and services providing basic necessities to residents of the city’s older neighborhoods.”

Provision of a child day care facility at this site meets the intent of providing neighborhood services to the surrounding area; however, staff supports the petition because of the request for conditional zoning. General R-6A zoning, with the ability to develop multi-family housing at this location, would be inappropriate. This section of the highway slices through established neighborhoods on both sides. If there was a shift in land uses from one side of the roadway to another, staff may be more inclined to support a general district rezoning of the site. Both neighborhood and subject site are already developed. The burden of buffering and protection are on the petitioner.

Mooreville Road is a major thoroughfare and can handle the marginal increase in traffic. If the site were more embedded into the neighborhood, staff would have more concern. The scale of the structure will limit the number of children and the increase in traffic.

Staff Recommendation: Recommend that the Planning Board vote to recommend approval to City Council of the S-District Zoning and Permit which will allow all current R-8 uses in addition to the use of a child day care facility with the following recommended condition(s):

- That a Type-C planting yard be provided along the north property line adjacent to the neighboring property along 3rd Street;
- That the existing gravel driveway be paved; and
- That the site not be expanded or redeveloped beyond that of the surrounding residential scale and character while under this S-District permit.

Those speaking in favor:

Dr. Bryant Norman of 155 Dove Lane is the husband of Kay Norman who was not able to attend today's meeting due to a School Board meeting. He and his wife believe that this service is needed and could be an asset to this area of the community. The location at the corner, fencing, and the large back yard are reasons for choosing this site. They are required to adhere to State specifications and will be a good neighbor.

Those speaking in opposition:

Charles Crook of 1617 3rd Street voiced concerns about on-street parking and traffic hazards being introduced to the neighborhood. A day care would not benefit his neighborhood.

Anthony Stevenson of 1607 3rd Street feels that this area has considerable traffic congestion. There are large trucks entering Mooreville Road nearby. The proposed driveway would be an inconvenience to residents exiting 3rd Street. There is a taxi service across from the proposed day care. Cars park on the street in the immediate vicinity. The service would not be for his neighborhood; most people living there are of retirement age.

Elizabeth Rogers of 1616 South 3rd Street read a letter from her daughter (Donna Alexander) living in Charlotte which stated that she is opposed to the child day care use. This has been Mrs. Roger's home for the past 60 years. The deed to the home has been transferred to her daughter. The neighborhood is mostly older adults and an increase in traffic through the neighborhood would be unsettling. She is opposed to the sound of

children. She believes that this use would devalue their property. She brought six signatures of people who are opposed to the rezoning. Seven people attended this meeting who were against the rezoning.

Mr. Mitchell, Senior Planner, explained to Mrs. Rogers how she could submit a protest petition through the City Clerk's office.

Mark Weddington of 1617 South 4th Street opposed the rezoning because he does not want a business in his neighborhood for this could cause a domino effect. He too had concerns about diminishing property values. He purchased the house his grandparents built 50 years ago.

Barbara Wagoner of 1625 South 4th Street is a grandmother that prefers a child day care that is not on a major thoroughfare for she has concern for their safety. She has been a resident of the neighborhood since 1966. She prefers to keep the neighborhood as it is.

Mildred Plummer of 1701 4th Street has lived at that address for 50 years and does not want to see the neighborhood disrupted.

Bruce Rogers of 1616 South 3rd Street has lived with his mother Elizabeth Rogers for the past three years. He interviewed a number of residents and invited them to the Planning Board meeting. He did not interview one person in favor of the rezoning. The driveway at 3rd Street is a hazard. There are no sidewalks at this site. Children residing at the house on the corner of 3rd Street are at risk of being struck by a motor vehicle. He is opposed to the sound of children. Business brings crime. This property borders on Fulton Heights which has made a significant investment in their properties.

Mr. Norman's rebuttal to the comments: The driveway could be modified. The house is fairly isolated with a proposed landscape buffer and he does not feel this rezoning will introduce any new hazards. The sound of children is not offensive to him. He cannot understand neighbors believing that this business would increase crime in the area. Mr. Norman invites neighbors to speak to him or his wife so they can address their fears and concerns. If approved, the day care will be required to provide one parking space for every ten children on site.

Board discussion:

Kelly Vance addressed the possibility of a one-way driveway exiting at 3rd Street; exiting the site could be a problem. Staff suggested that there are a number of ways it could be reconfigured.

Charlie Walters does not see the connection of bringing in a day care and crime. He grew up in this neighborhood and is opposed to the rezoning because he is against the encroachment of business into established old neighborhoods for which Salisbury is known.

Diane Young, a resident of Fulton Heights, stated that Fulton Heights has done a good job of protecting the area from encroachment of business and has introduced traffic calming to Fulton Heights. She is not in favor of the chipping away of the fringes of neighborhoods and feels there are better uses for that site.

Valarie Stewart supports residential scale limits that are small and intimate as this site is. There is a need for access to child care in Salisbury. Bryan Duncan agreed with Ms. Stewart. Licensing will not allow a great many children.

Albert Stout observed that the Planning Board was divided on this issue and felt that Z-15S-05 should be sent to committee for further discussion; Mr. Stout then made that into a MOTION. If he had to decide now he would follow the staff recommendation based on the Vision 2020 Comprehensive Plan. Sandy Reitz seconded the motion. The VOTE was 8-2 (Mark Beymer left before the vote) to send Z-15S-05 to Legislative Committee B (Chair - Sandy Reitz, Kelly Vance, Albert Stout, Price Wagoner and Bryan Duncan) Tuesday, November 15, noon at City Hall. Kelly Vance and Bryce Ulrich were opposed to sending Z-15S-05 to committee and voted against doing so. Members of the public were informed that they could attend the meeting.

Subdivision

S-06-05 John Leatherman

8.92 acre tract located off Rosemont Street and Dodd Street into seven commercial lots.

Dan Mikkelson made a presentation on behalf of staff member Patrick Ritchie. Once the Planning Board approves a preliminary subdivision, it is an actual approval rather than a recommendation to City Council. When City Council grants their approval they will simply be determining that the final subdivision plat meets all of the technical requirements.

The property is zoned B-1, R-8, B-6 and R-6A with a general development overlay on the property. Before any building can be constructed, the owner must submit a site plan through the review process.

There is a proposal to extend Rosemont as one means of access into the property. This gives Mr. Leatherman the required frontage on a public street. Dodd Street does not have standard concrete curb and gutter. This was a private driveway to a bank and not currently maintained by the City of Salisbury (a substandard street not on the City system). One item that needs to be discussed in greater detail is the connection of Rosemont to Dodd Street, all the way out to Main Street. The original right-of-way was thought to be 40 feet wide, which would be substandard in width but wide enough to make improvements. It now appears that the right-of-way of Dodd Street is less than that. He may have difficulty improving this road to the satisfaction of the city.

Mr. Leatherman is proposing the property be divided into seven lots and dedicate a water easement for future city plans for a water main extension. He also proposes the installation of water and sewer to each of his new lots. Mr. Leatherman submitted a letter agreeing to send this item to committee.

Staff recommendation is to send this proposal to a committee to discuss three specific things:

1. The Dodd Street requirement
2. Traffic calming because of the ability of traffic to come from Main Street, down the new road and then connect to Rosemont Street and drive through the existing neighborhood. There is a concern for cut-through traffic. There is a benefit to the neighborhood—including access for emergency vehicles.
3. Consider using a master plan on this development as opposed to a subdivision. Because this property is embedded into existing development, this site could achieve a higher effect if looked at with a master plan.

Planning Board made and seconded a MOTION to move past 6 p.m.

Board discussion:

Bryce Ulrich made a MOTION to send to committee. The substandard street issue concerns him. Albert Stout seconded the motion with all members voting AYE. (10-0)

Committee 2 (Valarie Stewart, Albert Stout, Bryce Ulrich, and Diane Young, who will substitute for Kelly Vance) will schedule a meeting at another time. The secretary will be in touch with committee members.

OTHER BOARD BUSINESS

November 15, the Planning Board will decide if the November 22, regular meeting of the Planning Board will be canceled. It looks like there will not be a quorum due to the Thanksgiving holiday.

Staff

Brochures were distributed to those members interested in the January 25-27 North Carolina Main Street Conference here in Salisbury.

There being no further business to come before the Planning Board, the meeting was adjourned at 6:10 p.m.

Brian Miller, Chairman

Lou Manning, Vice Chairman

Secretary, Diana Moghrabi